

Remarks

Claims 6-18 and 25-27 are pending. Upon entry of this amendment, claims 6 and 14 will be amended. Claims 9 and 26 will be canceled. Therefore, claims 6-8, 10-18, 25 and 27 will be pending.

35 U.S.C. § 103(a)

Claims 6-9, 18 and 25 are rejected under 35 U.S.C. § 103(a) as unpatentable over Matahira *et al.* (EP 1075836 A2). Applicants disagree and request reconsideration.

Independent claims 6 and 18 recite, in part, "deriving NAG from a fungal biomass containing chitin or bacteria that produce NAG." Matahira *et al.* do not teach or suggest deriving NAG from fungal biomass or bacteria. Instead, Matahira *et al.* disclose "NAG obtainable by hydrolysis of natural polysaccharide chitins derived from shells of crustacea such as crab and shrimp or lobster with an acid or an enzyme (natural-type NAG), or NAG obtainable by acetylation by chemical synthesis of a D-glucosamine chlorate which is obtainable by complete acidic hydrolysis of chitin (chemically synthesized NAG)...." (Paragraph [0014].) Additionally, Preparation Example 1 details the preparation of "natural-type NAG."

On page 4, the Office action states, "It should be noted that the source of the NAG used as recited in claims 9 and 18 does [not] render applicant's NAG different from Matshira (sp) *et al.*'s NAG." Applicants respectfully disagree. Deriving NAG from fungal biomass or bacteria presents a significant advantage in that the beverages prepared by the claimed method would be free of shellfish proteins, at least some of which are potent allergens. (See, e.g., Specification p. 12, ll. 20-24.)

Furthermore, these are method claims, and even accepting the argument that Matahira *et al.*'s final product may not contain shellfish proteins, the step of deriving NAG from fungal biomass or bacteria is not taught or suggested by Matahira *et al.* Thus, the method is novel and non-obvious over the prior art. As such, claims 6 and 18 are non-obvious in view of Matahira *et al.* and Applicants respectfully request withdrawal of the rejection of claims 6 and 18. Claims 7-9 and 25 depend from claim 6 and are allowable for at least the reasons discussed above in relation to claim 6.

35 U.S.C. § 102(b)/103(a)

Claims 10-17, 26 and 27 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Matahira *et al.* Applicants disagree and request reconsideration.

Independent claim 10 recites, in part, "an absence of shellfish proteins." The methods disclosed in Matahira *et al.* would result in food products that contain at least traces of shellfish proteins, as Matahira *et al.* teach using NAG obtained by hydrolysis of natural polysaccharide chitins derived from shells of crustacea such as crab and shrimp or lobster. Thus, the claims are distinguished from Matahira *et al.* Deriving NAG from crustacean shells typically yields a product having at least trace amounts of shellfish proteins. For example, as shown on page 2 of the attached advertisement (Appendix A) for a NAG dietary supplement from Jarrow Formulas, the NAG product contains a warning that specifically states, **"Warning: This dietary supplement contains shellfish. Do NOT use if allergic to shellfish."** (Vitacost.com, <http://www.vitacost.com/JarrowFormulasNAG750>, accessed August 22, 2008.) As mentioned above in relation to claims 6 and 18, shellfish proteins are potent allergens and could cause severe adverse effects if an allergic person were to consume a product containing shellfish proteins. The potential presence of shellfish proteins in a food product containing NAG derived from crustacean shells is a significant concern. In contrast, NAG derived from fungal biomass or bacteria contains no trace of shellfish proteins and will not produce an adverse reaction in a person allergic to shellfish proteins, thus providing an advantage over the products disclosed in Matahira *et al.* Thus, claim 10 is novel and non-obvious in view of Matahira *et al.*, and Applicants respectfully request withdrawal of the rejection of claim 10. Claims 11-13 depend from claim 10 and are allowable for at least the reasons set forth above in relation to claim 10.

Independent claim 14 recites, in part, "deriving NAG from a fungal biomass containing chitin or bacteria that produce NAG." As discussed above in relation to claims 6 and 18, Matahira *et al.* do not teach or suggest deriving NAG from fungal biomass or bacteria. Thus, claim 14 is neither anticipated nor obvious in view of Matahira *et al.*, and Applicants respectfully request withdrawal of the rejection of claim 14. Claims 15-17 and 27 depend from claim 14 and are allowable for at least the reasons set forth above in relation to claim 14.

Request for Interview

If any issues remain, the Examiner is formally requested to contact the undersigned attorney prior to issuance of an Advisory Action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution.

This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request, and MPEP § 713.09, which indicates that one interview may be granted after final rejection.

Respectfully submitted,

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Item Number: JAR 1190028

or

790011190028

Package Description: 120 Capsules

Product Weight Per Unit: 0.3 lb

Serving Size: 1 Capsule

Number of Servings: 120

Potency: 750 mg

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**PRODUCT DETAILS** **PRODUCT REVIEWS** **E-MAIL TO A FRIEND****Description**

N-Acetyl Glucosamine, Salt Free.

Supports Joints and Intestinal Health **N-Acetyl Glucosamine** is a molecule consisting of an amine (from glutamine) and a carbohydrate (glucose) that has been stabilized by complexing it to an acetyl group.

N-Acetyl Glucosamine is the body's precursor to hyaluronic acid, which is part of the synovial fluid that lubricates joints. N-A-G is produced in the intestinal tract via specialized cells called goblet cells that are responsible for producing your mucin (or mucosal lining).

N-Acetyl Glucosamine is the versatile form of glucosamine for joint and intestinal tissue.

This product is best taken with **BioSil™**, the only high potency source of orthosilicic acid, the biologically active form of silicon that strengthens joints.

Supplement Facts

Serving Size: 1 Capsule
Servings per Container: 120

	Amount Per Serving	% Daily Value
N-Acetyl Glucosamine	750 mg	*
*Daily value not established.		

Other Ingredients: Magnesium stearate. Capsule consists of gelatin. Contains: Shellfish (prawn).

Directions

Take 1 to 3 capsules per day, or as directed by your qualified health consultant.

Warnings

Warning: This dietary supplement contains shellfish. Do NOT use if allergic to shellfish.

Keep out of the reach of children.

Disclaimer

These statements have not been evaluated by the FDA. These products are not intended to diagnose, treat, cure, or prevent any disease.



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